

Testimony of David Benton  
Deputy Commissioner  
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Regarding the Implementation and Reauthorization of the  
Magnuson-Stevens Fishery Conservation and Management Act  
Before the Subcommittee on Oceans and Fisheries of the Senate Committee on  
Commerce, Science, and Transportation.

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Thank you, Madam Chair, for this opportunity to come before the Subcommittee on Oceans and Fisheries to comment on behalf of the State of Alaska regarding the implementation and reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (the Act). My name is David Benton. I am the Deputy Commissioner of the Alaska Department of Fish and Game. In that capacity I represent the State of Alaska on the North Pacific Fishery Management Council as well as in numerous international negotiations involving the fisheries and other living marine resources of the North Pacific. I have had the opportunity to have first hand experience with the impact of the Act on our national and international policies and programs to conserve and manage the resources of our region.

Today I would like to comment on a number of issues relating to the implementation of the Act since it was reauthorized in 1996, and then discuss some of the important policy issues which will come before you during this round of reauthorization.

There should be no doubt that the Magnuson-Stevens Act has had a profound effect on fishery conservation and management not only in the United States, but throughout the world. In the early 1970s, it was a key piece in establishing the 200-mile limit rule that is now in place worldwide. It established the framework for Americanizing the fisheries off our shores and by doing so set the stage for reducing and transforming the foreign distant water fleets and building the present day U.S. based industry. Over the years it has also been the vehicle to shape U.S. policy regarding management and conservation beyond the 200-mile limit of the United States, leading to measures that protect fish and other resources important to U.S. interests.

The Act has also been the major legislative vehicle for shaping domestic fishery conservation and management policies. Over the years, the Act has been continually strengthened to further national goals to conserve and maintain our nation's fishery resources, and to promote sustainable fisheries economies in our coastal communities. This is particularly true of the 1996 reauthorization. The addition of new national standards to reduce bycatch, promote safety at sea, and ensure healthy fishing economies in our coastal fishing communities represent major improvements to our national fishery policies. New requirements to protect essential fish habitat, and the establishment of the Alaska and Western Pacific Community Development Programs are major steps forward. Provisions regarding stronger cooperation between the states and the National Marine Fisheries Service have led to improved coordination between state and federal management programs with attendant benefits for the

industry, cost savings to both the federal and state governments, and significantly improved conservation programs for the resource.

Taken as a whole, the 1996 amendments to the Act were far reaching and a great improvement to our national fisheries programs. There have been some major difficulties in implementing the new law in some cases. For example, we are just embarking on a major effort to identify essential fish habitat areas and measures to protect them. We have spent a considerable amount of time developing the criteria for designating such areas and a process for evaluating the habitats off Alaska. But, with roughly two-thirds of the U.S. continental shelf and approximately 34,000 miles of coastline, this is a daunting task that will take time. In addition, while the North Pacific Fishery Management Council has been working for a long time to promote clean fishing and reduce waste, new efforts in this regard have been overshadowed by other mandates such as implementing the American Fisheries Act (AFA) and addressing the conservation needs of endangered stellar sea lions.

Now, as measures to implement the AFA, and regulations addressing sea lion concerns are mostly in place, efforts must be renewed to implement those parts of the Act that have been deferred. For example, measures to provide individual vessel incentives to control and reduce bycatch, promote full retention, and improve catch measurement as envisioned under Section 313 must be pursued. While the North Pacific Fishery Management Council has made progress in each of these areas, more work remains to be accomplished.

However, I want to point out that we have had some notable successes. One that the State of Alaska is particularly proud of is the Community Development Quota (CDQ) program in Alaska. This program, which began in 1992 as part of the first Inshore/Offshore allocation scheme for Bering Sea pollock, has been a remarkable success story. The CDQ program is established in perpetuity through the Magnuson-Stevens Act authorized by the Congress in 1996. I think you will hear more about it from another panel, but I would like to touch on it briefly here.

The CDQ program was based on three fundamental principles. First, that community development plans and efforts must be designed and implemented from the local level as much as possible. The affected villages had to have direct input into such programs and there needed to be strong local support. Thus, local CDQ organizations must have a board member from each village on the board of directors.

Second, the quota must be used for the greatest benefit to the villages of the region. Sixty-five ANCSA (Alaska Native Claims Settlement Act) villages participate in six CDQ groups. Each group has established partnerships with industry participants to harvest and in some cases process the CDQ quota. It was recognized that competition amongst these groups for the quota would go a long way to ensure best use of the quota allocation. The quota is not an entitlement to any particular group, and thus, performance is important in maintaining their individual programs.

Third, there needed to be accountability in the program. Foremost is the need for accountability by the CDQ groups to the residents and villages of the region, to ensure that the benefits reach the

communities. There is also a need for accountability to the other participants in the fisheries that are affected by the quota allocation. This really translates into accountability to the nation, as these are national resources.

The State of Alaska has a role in all of these functions. We have tried to meet out national obligations and our obligations to the villages fairly and honestly. I think that the record, as reflected in the recent National Research Council (NRC) report on the CDQ program, speaks well for the program, the efforts of the residents of the region and their CDQ organizations, and the work of the State.

Presently, the CDQ program includes such species as pollock, halibut, sablefish, Atka mackerel, Pacific cod, and crab. Currently, the CDQ program is allocated portions of the groundfish fishery that range from 10% for pollock to 7.5% for most other species. CDQ investments must be fisheries related in nature. The investments range from ownership in factory trawlers, catcher vessels, crab vessels, longline processors, and shore-side processing facilities in salmon and halibut. The program has provided more than 1,000 annual jobs for participating communities. Total salary and wages generated have been more than \$30 million since its inception in 1992. This program has also contributed to infrastructure development projects within the region as well as loan programs and investment opportunities for local fishermen.

While the CDQ program has been largely a success, we are continually looking for ways to improve it. Currently, the State is working with the CDQ groups to implement changes to the program including the recommendations of the NRC.

Another aspect of the Magnuson-Stevens Act that has been very helpful to Alaska is Section 312. It has the potential to be an effective force in assisting fishing communities and the fishing industry in dealing with the impacts of a disaster. Many of the immediate and longer term impacts of the 1997 Western Alaska Fisheries Disaster were addressed through the use of this Act. Several factors helped make this possible and some modifications of the act could enhance the effectiveness of Section 312. The willingness of NOAA to work with the impacted communities and the lack of well-established grant criteria allowed the flexibility needed to tailor a response to the specific needs of a community, region, and fishery. The use of the Coordinated Response Partnership (CRP) in the impacted regions gave the maximum voice possible to those most affected by the disaster in designing appropriate program responses. The recognition that fishing families needed direct assistance with food, fuel and utilities costs was essential to the effectiveness of this response. The 3 to 1 match requirement is very difficult for small rural communities struggling to deal with a disaster to meet and we would like to make recommendations pertinent to this issue as the reauthorization process moves forward. Finally, there are indirectly impacted businesses that are not covered under Section 312 but are an integral part of the infrastructure of coastal communities. We believe that the effectiveness of the Act to respond to disasters could be strengthened by including these indirectly impacted parties.

The 1996 amendments to the Act also contained provisions to improve fishery monitoring and research programs. Improved coordination with the states is one of the most important characteristics of these provisions. Congress strengthened federal programs in the areas of vessel registration, catch reporting,

and information management, but it also required that these programs be closely coordinated with the states. Section 401 of the Act is clear on this point. However, performance by National Marine Fisheries Service (NMFS) under these provisions has been sporadic and sometimes seriously at odds with the plain language of the Act. At various times we have seen concerted efforts to develop centralized data and registration programs, often resulting in duplication of existing state programs and conflicting with existing state authorities.

Our success working with NMFS in mitigating these problems has been spotty. For example, NMFS was independently developing its own system, including its own software, without consulting with the state. This could have led to numerous problems for industry and our two management systems. After some protracted and contentious discussions with NMFS, we are now cooperating fairly well to develop a shared electronic fishery reporting system in the North Pacific. We are hopeful that these efforts will lead to the use of compatible software, hardware, and data reporting formats so that data will be consistent between federal and state systems and can be readily used by both state and federal managers. Such an approach will reduce costs to industry as well as to states and the federal government. It will also improve management programs by providing consistent data on a timely basis.

Unfortunately, despite Section 401 and our recent experiences regarding electronic reporting, we are seeing the same pattern develop for other aspects of fishery research, data programs, and vessel monitoring. This may be an area that we want to revisit during the upcoming reauthorization of the Act, and we look forward to working with your staff concerning this issue.

As a final comment, I want to mention the moratorium on Individual Fishing Quotas (IFQs) that expire on October 1 of this year. The development and implementation of IFQs has been a complex and controversial topic. They have been the subject of numerous studies, reports, debates, and of course were a highly controversial topic during the 1996 reauthorization. There is no doubt that IFQs can be a powerful management tool. There is also no doubt that they are highly allocative and can have far reaching consequences for small boat fisheries, coastal communities, processors, fishermen, and the resource itself. Few of these issues are adequately addressed, perhaps because the act fails to properly define a fishery in Section 3 (Definitions). A fishery encompasses the resource, harvesting and processing through initial product stabilization. The effects of IFQ allocations, once made, are very hard to reverse when there is a need to do so. Hence, allowing for the development and implementation of IFQs is a major issue to be considered by Congress in these proceedings. There are major national public policy issues that must be addressed prior to allowing the moratorium to expire.

A number of these issues surfaced in the IFQ study conducted by the NRC pursuant to the Act. And, while the Academy noted that IFQs were a tool best implemented on the regional level to account for the various differences among the nations fisheries, there are a number of issues which transcend regional boundaries which we feel need to be addressed. These include issues about levels of consolidation, maintaining diversity in the fleets and fisheries, providing for entry level fisheries, protecting coastal communities and promoting sustainable economies in those communities. Because IFQs permanently divorce the resource from public ownership to private ownership, other concerns have arisen including the need to minimize the windfall profit nature of initial allocations and collecting

appropriate rents for the quotas. The increased management costs arising from IFQ programs must also be recognized and dealt with. After all, these fisheries are public resources; IFQs restrict entry and when given to current participants at no cost, they award initial recipients the value of the public resource.

While none of these issues are insurmountable, the permanent nature of IFQ allocations dictate that these issues must be addressed prior to initiating new programs. The State believes that it will be difficult to address these issues before the moratorium expires on October 1, 2000.

At this time we have pointed out some general problems and made some general recommendations. As congress moves forward we will have specific recommendations for changes that we will share with the committee and your staff at some time in the future. In closing, Madam Chair, I again want to thank you for this opportunity to comment on the reauthorization of the Act. I also wish you a pleasant stay for the remainder of your time in Alaska and look forward to working with you and the Committee in the future.